

DRAFT

Governor's Blue Ribbon Water Task Force

Meeting Notes
March 24-25, 2004
Albuquerque, NM

Attendees: Brian Burnett, Elmer Salazar, John D'Antonio, Bill Hume, Anne Watkins, Larry Blair, Conci Bokum, Peter Davies, Eileen Grevey Hillson, Debbie Hughes, Howard Hutchinson, Barbara Johnson, Sarah Kotchian, Elmer Lincoln, Paul Paryski, Manuel Trujillo, and Bob Vocke attended the meeting. Peter Chestnut (Pueblo Water Law Attorney) and Sharon Hausam (Economic Development Planner for Sandia Pueblo) attended as guests.

The next meeting of the BRWTF will be April 28-29 in Las Cruces.

John D'Antonio briefed the Task Force and made following points:

- Progress is being made on Indian water settlements (however, non-Indians are feeling left out);
- Progress is being made on NM water courts, including training in water law;
- OSE/ISC is evaluating its funding options and is putting together a 3-5 year plan – a recurring funding source is needed and fees are not popular (would like to convert 1/3 of term employees each year and OSE/ISC is working with the Governor, DFA, & LFC);
- Funding at the federal/state nexus is being sought (e.g., \$3M for satellite imagery etc., \$5.5 M for settlements & ESA, and \$8M for the Pecos);
- NM is hoping to receive \$400M (\$150 Gila, \$212M Aamodt, and \$38M Pecos) in federal funding;
- The Administrative Litigation Unit of OSE is very busy (78 cases and 20 hearings in next 5 months);
- SB 301 Livestock Water Tank Regulation was signed by the Governor;
- NM reservoirs are projected to have low water levels for recreation this year (e.g., Elephant Butte is projected to be at 14% on Memorial Day weekend, 12% on July 4th, and 4% on Labor Day [50% of last year]);
- The snow pack is melting quickly and Compact reservoir storage restrictions are in force (however, the 53,000 af Compact release credit will be stored in El Vado);
- OSE is preparing for active water resource management in critical areas (e.g., Gallinas River/Las Vegas and Pojoaque/Tesuque/Nambe) - water masters are being hired, water master manuals are being prepared, and defensible legal structures are being prepared;
- A shortage sharing agreement has been reached for the San Juan Basin and issues are being worked on the Lower Rio Grande;
- Several key vacancies exist in the OSE (e.g., Director of Water Rights Division);
- The current Aamodt settlement will require new water for the region – the source of the water remains unclear;
- OSE/ISC is assembling an accomplishments package;
- OSE is reorganizing to implement the SWP – Anne Watkins is expected to play a key role; and
- The SWP is on a 5-year review schedule with annual updates to ISC in December.

Task Force discussed implementing the SWP and the following observations were made:

- The implementation process needs a strategic focus;
- Much of the implementation will be driven by availability of funding;
- Need to leverage federal funding;
- The Task Force should focus on controversial areas;
- Educating “water” with the NM Legislature will be key to successful implementation;
- Task Force members need to educate their constituencies;
- The Task Force needs education materials for consistency of message;
- A dedicated funding source is needed;

- Umbrella funding is needed (e.g., capital, administration/management, and metering & measuring);
- 25-30% of NM is adequately metered;
- Gross receipts tax could be a source of funding;
- A legislative message is needed on converting temporary FTEs and funding needs;
- The Task Force need to focus on a limited number of items, their funding requirements, and potential funding sources;
- Resolutions (from various constituencies) in support of funding could be sought by Task Force members;
- Funding consensus comes down to equity;
- Affordability is an issue for the end user;
- OSE needs the resources to complete adjudications – this is a high priority;
- A use fee on paper water rights in an unadjudicated basin is an issue;
- Citizens of the State expect the State to pay for everything (e.g., drinking water systems & M&O) – this culture must be changed and costs should be recovered through use fees when appropriate;
- The NM Legislature should fund administration of water – water users should pay for their systems/services;
- A real estate transfer fee is a possibility (e.g., Virginia);
- There should be water funding priority consensus going into the next NM legislative session;
- Indian settlements must be completed so that adjudications can be completed;
- Settling Indian claims requires significant federal funding, which is an issue during current federal deficits;
- Metering and measuring of all uses is required to complete adjudications;
- Acequia water use is variable depending on surface flows;
- Acequias are governmental units and can manage water in common;
- The Treaty of Guadalupe Hidalgo must be considered;
- Ranches were in existence prior to the federal land managers e.g., BLM;
- A priority list needs to be created (e.g., general agency funding, temporary FTE conversion, dedicated funding sources, adjudications, and measurement (to manage water budget) – a short list should be created;
- There must be funding equity for projects (e.g., small constituencies with small projects competing with large constituencies with large projects has not resulted in funding equity);
- Value (funding of water projects) must come back to those being taxed;
- Users should invest in their water infrastructure;
- There is a need to look out/plan the water future for the next 20-30 years;
- OSE funding priorities include FTE conversion (\$7-8M), adjudications (includes metering and monitoring), and conservation (includes education, activities like WaterWise Development, conservation plans, agricultural conservation, and use of brackish water [there was some discussion of irrigated agriculture depletion vs. public water supply depletion – the latest OSE total depletion numbers for 2000 are approximately 1.9M afy for irrigated agriculture and 0.18M afy for public water supply]);
- Conservation education must be coordinated (e.g., OSE & SWCDs);
- SWCDs must review terrain management plans (can be for free or for a charge – a tax [1 mill] can be levied;
- Consider incremental increase in fee concept e.g., domestic wells;
- Need to look to national future (like with schools) and not whose ox is being gored today;
- Cannot erode State's economic engine(s);
- OSE has used dedicated funds for uses that were not intended – this must be addressed;
- The BRWTF needs a funding message by June;
- The value (pricing) of water must be addressed;
- Exclusions to the water use fee in the last session created equity issues;
- The Task Force could consider the following areas – SWP funding that benefits everybody, tools for & conduct of adjudications, tools for & conduct of active water resources management,

- monitoring/measuring and gather data, technical support for conservation & education support, and water project funding;
- Entities can bond for water projects;
- The Task Force should begin crafting its own consensus “short” message at the April meeting with hooks back to the SWP; and
- Criteria for water project funding should be evaluated – broader than Water Trust Board.

Peter Chestnut made the following points during his Pueblo Indian Water Rights presentation to the Task Force:

- Each Pueblo is different (e.g., historical/existing use of water, resource base, and potential future needs for water);
- New Mexico Indian tribal governments are sovereigns;
- Pueblo Indian water rights can be grouped into two categories – Indian “reserved rights” on tribal lands (includes PIA) and Pueblo Indian rights;
- Pueblo Indian water rights are recognized and protected as a matter of federal law – not state law;
- Pueblo water rights are most senior (rooted in aboriginal use and recognition of tribes through Spanish, Mexican, and U.S. law);
- Treaty of Guadalupe-Hidalgo recognized and respected aboriginal rights;
- Congress recognized “prior and paramount” water rights for six Middle Rio Grande Pueblos (1928 MRGCD Act);
- Pueblo water rights are independent from state allocation law, regulation and administration;
- Pueblo water right components include – HIA ditch, water harvesting non-ditch (“ak-chin”), livestock, and domestic (municipal) use; and
- Pueblos may also acquire state law rooted rights.

Sharon Hausam made the following points during her Land and Water Use (Pueblo of Sandia) presentation:

- Historical – time immemorial, at current location since 1300, Land Grant from King of Spain in 1748, and Treaty of Guadalupe-Hidalgo;
- Land base – Sandia Mountains to Rio Grande, Albuquerque to Bernalillo, and 24,900 acres plus 9,940 acre preservation tract (Congressional trust land ratification in 2003);
- Demographics – 3,000 tribal members in 1539, 350 members in 1748, and just under 500 members today (membership determined by Pueblo);
- Land use – tied to culture, restricted to Pueblo and leases, based on community needs (including future generations), and is related to water use;
- 1990 Comprehensive Plan – 8 management areas (village, ranching/farming, grazing, commercial (recreational & industrial), buffer commercial, mountain buffer, and bosque/river);
- Watershed health – protect and maintain integrity of surface & subsurface and enhance and protect water quantity and quality including recharge;
- Land use for agriculture – 1928 MRGCD Act provided for irrigation of 8,847 acres and the 1935 Act of Congress provided for 12,800 acres of newly irrigated lands (creates the floor for the 6 Pueblos);
- Land use for economic development – future diversification of economy including natural resource development;
- Water use – based on land use (limited residential), economic development (conservation standards for use), and religious practices (water in the Rio Grande, quality is important);
- Water use – water reclaimed and used (300,000 gpd);
- Rio Grande restoration is done by the Sandia Environment Department (remove non-native plants, plant native plants e.g., cottonwood, restore bosque, and monitor groundwater); and
- Pueblo maintenance of the “culture – land use – water use cycle” is key for future generations.